

(1) A disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) A disclosure to the General Counsel of the GAO Personnel Appeals Board of information which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(i) *Reprisals for appeals.* GAO employees shall not take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

(j) *Discrimination for conduct.* GAO employees shall not discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States.

(k) *Other personnel actions.* GAO employees shall not take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule or regulation implementing, or directly concerning, the merit system principles described in §2.4.

(l) *Information to the Congress.* Nothing in this section shall be construed to authorize the withholding of informa-

tion from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

§ 2.6 Veterans' preference.

(a) GAO will provide preference, for any individual who would be a preference eligible in the executive branch, in a manner and to an extent consistent with preference eligibles in the executive branch.

(b) Appeals from preference decisions will be heard by the GAO Personnel Appeals Board.

PART 3—EMPLOYMENT

Sec.

3.1 Appointment, promotion, and assignment.

3.2 Oath of office.

3.3 Assignments to and from States.

AUTHORITY: 31 U.S.C. 732.

SOURCE: 45 FR 68376, Oct. 15, 1980, unless otherwise noted.

§ 3.1 Appointment, promotion, and assignment.

Employees of GAO shall be appointed, promoted and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

§ 3.2 Oath of office.

The provisions of subchapter II of chapter 33 of title 5, U.S. Code, and Office of Personnel Management implementing regulations apply to Government Accountability Office employees.

§ 3.3 Assignments to and from States.

The provisions of subchapter VI of chapter 33 of title 5, U.S. Code, and Office of Personnel Management implementing regulations apply to Government Accountability Office employees.

PART 4—EMPLOYEE PERFORMANCE AND UTILIZATION

Sec.

4.1 Training.

4.2 Performance appraisal.

4.3 Removal for unacceptable performance.

4.4 Incentive awards.

§ 4.1

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AUTHORITY: 31 U.S.C. 732.

SOURCE: 45 FR 68376, Oct. 15, 1980, unless otherwise noted.

§ 4.1 Training.

The provisions of chapter 41, of title 5, United States Code, and Office of Personnel Management implementing regulations apply to Government Accountability Office employees.

§ 4.2 Performance appraisal.

(a) The GAO shall develop one or more performance appraisal systems which provide for periodic appraisals of job performance of employees; encourages employee participation in establishing performance standards; and uses the results of performance appraisal as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

(b) Each performance appraisal system shall provide for—

(1) Establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of job-related criteria (which may include the extent of courtesy demonstrated to the public) for each GAO employee.

(2) As soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to reach GAO employee the performance standards and the critical elements of the employee's position.

(3) Annually evaluating each employee during the appraisal period on such standards.

(4) Recognizing and rewarding employees whose performance so warrants.

(5) Assisting employees in improving unacceptable performance.

(6) Reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

§ 4.3 Removal for unacceptable performance.

GAO may reduce in grade/pay level or remove an employee for unacceptable

performance in accordance with the provisions of this section.

(a) *Employee entitlement.* A GAO employee whose reduction in grade/pay level or removal is proposed under this section is entitled to—

(1) An advance written notice of the proposed action which identifies—

(i) Specific instances of unacceptable performance by the employee on which the proposed action is based; and

(ii) The critical elements of the employee's position involved in each instance of unacceptable performance.

(2) Be represented by an attorney or other representative.

(3) A reasonable time to answer orally and in writing.

(4) A written decision which—

(i) Specifies the instances of unacceptable performance by the employee on which the reduction in grade/pay level or removal is based.

(ii) Unless proposed by the Comptroller General or by a senior manager (e.g., the Deputy Comptroller General, an Assistant Comptroller General, or a Division or Office Director) has been concurred in by an employee who is in a higher position than the employee who proposed the action.

(b) *Decisions to retain, reduce in grade/pay level or remove.* The decision to retain, reduce in grade or remove a GAO employee—

(1) Shall be made within 30 days after the date of expiration of the notice period, and

(2) In the case of reduction in grade/pay level or removal, may be based only on those instances of unacceptable performance by the employee—

(i) Which occurred during the 1-year period ending on the date of the notice of the proposed action.

(ii) For which the notice and other requirements of this section are complied with.

(c) *Performance improvement.* If because of performance improvement by the employee during the notice period, the employee is not reduced in grade/pay level or removed, and the employee's performance continues to be acceptable for 1 year from the date of advance written notice, any records shall be retained only as prescribed by other recordkeeping requirements, such as grievances, adverse action appeals, or